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October 12, 1999

BY FACSIMILE

The Honorable Jacob J. Lew
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Lew:

This letter requests a written explanation why the Office of Management and Budget (OMB) has still not provided a response to my August 2, 1999 letter about OMB's "Guidance for Implementing the Congressional Review Act" (CRA). Instead, on August 12th, OMB's Office of Information and Regulatory Affairs Administrator John Spotila sent me a letter stating "We will give further consideration to your views and respond to you after your return from the August recess." Upon receipt of this letter, the Subcommittee staff called to say that they were available to meet Mr. Spotila at any time. Nonetheless, OMB was unwilling to schedule a meeting.

As I stated in my April 1st, June 2nd and August 2nd letters, OMB's March 31st guidance is not responsive to Congressional expectations for expanded and complete OMB guidance on the CRA, as required by law to be issued by March 31st. When will OMB be issuing expanded and complete CRA guidance, especially about noncodified documents with general applicability and future effect?

In the meantime, I have begun an investigation of agencies' use of noncodified documents (such as guidance, guidelines, manuals, and handbooks), including the specific explanations within each of these documents regarding their legal effect. I have also asked agency General Counsels to identify if each of these documents was submitted to Congress under the CRA.

If you have any questions about this letter, please contact Professional Staff Member Barbara Kahlow at 225-4407.

Sincerely,

A handwritten signature in black ink that reads "David McIntosh". The signature is fluid and cursive, with the first name "David" and last name "McIntosh" clearly legible.

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable Henry A. Waxman
The Honorable Dennis Kucinich
The Honorable Jim Kolbe
The Honorable Steny H. Hoyer